

Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 239

## HOUSE BILL 2539

AN ACT

AMENDING TITLE 12, CHAPTER 8, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-1130; RELATING TO EMINENT DOMAIN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 12, chapter 8, article 2, Arizona Revised Statutes,  
3 is amended by adding section 12-1130, to read:

4 12-1130. Fees and expenses; appraisal; relocation benefits;  
5 applicability

6 A. IN A PROPOSED CONDEMNATION ACTION IF AN OWNER-OCCUPANT OF A  
7 RESIDENTIAL PROPERTY DISAGREES WITH THE OFFER AND APPRAISAL, THE  
8 OWNER-OCCUPANT MAY OBTAIN A SECOND APPRAISAL FROM AN APPRAISER WHO IS ON THE  
9 APPROVED LIST THAT IS MAINTAINED BY THE GOVERNMENTAL ENTITY AND THE  
10 GOVERNMENTAL ENTITY SHALL PAY FOR THE SECOND APPRAISAL.

11 B. BEFORE FILING AN EMINENT DOMAIN ACTION, THE GOVERNMENTAL ENTITY  
12 SHALL PROVIDE TO THE OWNER-OCCUPANT ALL APPRAISALS OF THE PROPERTY THAT THE  
13 GOVERNMENTAL ENTITY OBTAINS.

14 C. ANY GOVERNMENTAL ENTITY THAT ACQUIRES OWNER-OCCUPIED RESIDENTIAL  
15 PROPERTY BY CONDEMNATION OR THREAT OF CONDEMNATION SHALL PROVIDE THE  
16 OWNER-OCCUPANT WITH A DETERMINATION OF RELOCATION BENEFITS IN AN AMOUNT THAT  
17 ALLOWS THE OWNER-OCCUPANT TO PURCHASE A COMPARABLE REPLACEMENT DWELLING AS  
18 PROVIDED UNDER APPLICABLE RELOCATION LAW.

19 D. IN A CONDEMNATION ACTION TO ACQUIRE OWNER-OCCUPIED RESIDENTIAL  
20 PROPERTY, THE COURT MAY AWARD FEES AND OTHER EXPENSES TO ANY PARTY OTHER THAN  
21 THIS STATE OR A CITY, TOWN OR COUNTY OR ANY OTHER POLITICAL SUBDIVISION OF  
22 THIS STATE. IN MAKING THE DETERMINATION, THE COURT MAY CONSIDER THE AMOUNT  
23 OF THE DIFFERENCE BETWEEN THE FINAL OFFER AND THE COMPENSATION AWARDED, THE  
24 PERCENTAGE OF THE DIFFERENCE BETWEEN THE FINAL OFFER AND THE AWARD AND ANY  
25 OTHER FACTORS THE COURT DEEMS APPROPRIATE. FOR THE PURPOSES OF THIS  
26 SUBSECTION, "FEES AND OTHER EXPENSES" MEANS THE REASONABLE EXPENSES OF EXPERT  
27 WITNESSES, THE REASONABLE COST OF ANY STUDY, ANALYSIS, ENGINEERING REPORT,  
28 TEST OR PROJECT THAT THE COURT FINDS TO BE DIRECTLY RELATED TO AND NECESSARY  
29 FOR THE PRESENTATION OF THE PARTY'S CASE AND REASONABLE AND NECESSARY  
30 ATTORNEY FEES.

31 E. THIS SECTION DOES NOT APPLY TO ACTIONS FOR ACQUISITION OF PROPERTY  
32 FOR PUBLIC SAFETY, TRANSPORTATION, FLOOD CONTROL OR UTILITY PURPOSES.

APPROVED BY THE GOVERNOR MAY 17, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 17, 2004.

Passed the House March 11, 2004

by the following vote: 39 Ayes,

19 Nays, 2 Not Voting

Roberto C. Flores  
Speaker of the House

Norman L. Fyoo  
Chief Clerk of the House

Passed the Senate May 6, 2004

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

Ken Bennett  
President of the Senate

Charmine Beckett  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2539

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

May 11, 2004,

by the following vote: 52 Ayes,

0 Nays, 8 Not Voting

Robert Flake  
Speaker of the House  
Norman L. Fyoo  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

11th day of May, 2004.

at 12:12 o'clock P. M.

Jennifer Uparra  
Secretary to the Governor

Approved this 17 day of

May, 2004,

at 2<sup>40</sup> o'clock P. M.

J. N. ...  
Governor of Arizona

H.B. 2539

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17 day of May, 2004,

at 4:14 o'clock P. M.

Jamie L. Brewer  
Secretary of State